

**UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK**

ESTHEFANY HEREDIA, ESLAINI FERNANDEZ,  
and ESTELA TAVERAS,  
Individually and on Behalf of All Other Persons  
Similarly Situated,

Plaintiffs,

-against-

AMERICARE, INC., MARTIN KLEINMAN and  
JOHN DOES #1-10,

Defendants.

Civil Action No.: 17-cv-06219

**NOTICE OF MOTION TO  
DISMISS COMPLAINT  
PURSUANT TO FEDERAL  
RULE OF CIVIL PROCEDURE  
12(B)(6) AND TO STRIKE  
CLASS ALLEGATIONS**

**SIRS:**

**PLEASE TAKE NOTICE** that upon the annexed Declaration of Kevin J. O'Connor, Esq., dated December 27, 2017, and the exhibits annexed thereto; and upon the accompanying Memorandum of Law; and upon all the pleadings and proceedings heretofore had herein, Defendants, AMERICARE, INC. and MARTIN KLEINMAN (collectively "Defendants"), by and through their undersigned counsel, will move at the United States Courthouse, Daniel Patrick Moynihan Building, 500 Pearl Street, Room 1920, New York, NY 10007 before the Honorable William H. Pauley III, on a date to be set by the Court, to dismiss the Complaint filed by Plaintiffs Esthefany Heredia ("Heredia"), Eslaini Fernandez ("Fernandez") and Estela Taveras ("Taveras") (collectively, "Plaintiffs") pursuant to FRCP 12(b)(6) and to strike the class allegations.

Dated: December 27, 2017

**PECKAR & ABRAMSON, P.C.**

By: /s/ Kevin J. O'Connor  
KEVIN J. O'CONNOR  
41 Madison Avenue, 20<sup>th</sup> Floor  
New York, New York 10010  
(212) 382-0909  
*Attorneys for Defendants*

To: William C. Rand, Esq.  
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501 Fifth Ave., 15<sup>th</sup> Floor  
New York, New York 10017  
(212) 286-1425  
*Attorneys for Plaintiffs*

LAW OFFICES

**Peckar &  
Abramson**

A Professional Corporation

**DECLARATION OF SERVICE**

I declare that, on this date, a copy of this Notice of Motion to Dismiss, Memorandum of Law in Support and Declaration of Kevin J. O'Connor, Esq. was electronically served pursuant to Local Civil Rule 5.2 upon counsel for Plaintiff as follows:

William C. Rand, Esq.  
Law Office of William Coudert Rand  
501 Fifth Ave., 15<sup>th</sup> Floor  
New York, New York 10017  
(212) 286-1425  
*Attorneys for Plaintiffs*

Dated: December 27, 2017

/s/ Kevin J. O'Connor  
By: KEVIN J. O'CONNOR

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Abramson**

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